



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF JANUARY 13, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-01 People v. Betts, S111309. (E029720; 102 Cal.App.4th 922; Riverside County Superior Court, RIF089681.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Should the determination whether California courts had jurisdiction over crimes committed outside the state but initiated inside the state be made by the trial court or the jury? (2) Was the evidence sufficient to give California courts jurisdiction over defendant's crimes? (3) Was venue proper in Riverside County over a crime initiated there but completed in Los Angeles County? (4) Is the question of venue a matter to be determined by the trial court or the jury?

#03-02 In re Dannenberg, S111029. (A095299; 102 Cal.App.4th 95; Marin County Superior Court, SC112688A.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order granting a writ of habeas corpus. The court limited review to the following issue: At a parole suitability hearing that is held pursuant to Penal Code section 3041, must the Board of Prison Terms generally engage in a comparative proportionality analysis with respect to offenses of similar gravity and magnitude and consider base term matrices used by the Board in setting release dates and

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deny a parole date solely on the basis of the circumstances of the offense only when the offense is particularly egregious, or may the Board first determine whether the inmate is suitable for parole because he or she is no longer a threat to public safety and engage in a proportionality analysis only if it finds the inmate suitable for parole?

#03-03 In re George T., S111780. (H023080; 102 Cal.App.4th 1422; Santa Clara County Superior Court, J122537.) Petition for review after the Court of Appeal remanded in part and otherwise affirmed orders in a wardship proceeding. This case presents the following issue: Did sufficient evidence support the trial court's finding that defendant made a criminal threat in violation of Penal Code section 422 by giving two female classmates a poem labeled "Dark Poetry" that included the lines "I am Dark, Destructive, & Dangerous" and "I can be the next kid to bring guns to kill students at school"?

#03-04 People v. Konow, S111494. (D037680; 102 Cal.App.4th 1020. mod. 103 Cal.App.4th 372d; San Diego County Superior Court, SCD152825.) Petition for review after the Court of Appeal reversed an order dismissing a criminal proceeding. This case presents the following issues: (1) Is the power of the magistrate to dismiss a case in the interests of justice at the preliminary hearing (Pen. Code, § 1385) a "substantial right" of the defendants so as to render their commitment unlawful under Penal Code section 995 if the magistrate erred in determining that it lacked authority to dismiss under section 1385? (2) Can a superior court judge, acting on a Penal Code section 995 motion, review any aspect of the ruling of another superior court judge granting a motion to reinstate criminal charges under Penal Code section 871.5?

#03-05 MacDonald v. Gourley, S111253. (B152695; 102 Cal.App.4th 568; Los Angeles County Superior Court, BS061075.) Petition for review after the Court of Appeal reversed the judgment in a proceeding for writ of administrative mandate. This case presents the following issue: Does Vehicle Code section 13380 limit the Department of Motor Vehicles to reviewing the arresting officer's sworn report when conducting an administrative review of the suspension of a driver's license following an arrest for driving under the influence?

#03-06 People v. Montoya, S111662. (F039071; 103 Cal.App.4th 25; Kern County Superior Court, SC082478A.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Is the offense of unlawfully taking or driving a motor vehicle, in violation of Vehicle Code section 10851, a lesser included offense of carjacking (Pen. Code, § 215) precluding conviction of both offenses for a single incident?

#03-07 Rojas v. Superior Court, S111585. (B158391; 102 Cal.App.4th 1062; Los Angeles County Superior Court, BC214521, BC224568.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: What is the scope of the privilege for materials prepared for the purpose of mediation (Evid. Code, § 1119) with respect to “raw evidence” (e.g., data, photographs and witness statements) and “derivative materials” included in compilations prepared for and used in mediation?

#03-08 People v. Ayele, S111522. (D038700; 102 Cal.App.4th 1276; San Diego County Superior Court, SCD156967.) Petition for review after the Court of Appeal affirmed a judgment of criminal offenses. The court ordered briefing deferred pending decision in People v. Canty, S109537 (#02-167), which presents the following issue: Was defendant entitled to have the disposition of her conviction for transportation of a controlled substance set in accordance with the provisions of the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), or was that enactment inapplicable because defendant was also convicted of misdemeanor driving under the influence of a controlled substance? (See Pen. Code, § 1210.1, subd. (b)(2).)

#03-09 Soukup v. Hafif, S111545. (B154311; unpublished opinion; Los Angeles County Superior Court, BC247941.) Petition for review after the Court of Appeal affirmed orders denying special motions to strike.

#03-10 Stroock & Stroock & Lavan v. Tendler, S111188. (B147408; 102 Cal.App.4th 318; Los Angeles County Superior Court, BC223264.) Petition for review after the Court of Appeal reversed an order granting a special motion to strike.

The court ordered briefing in Soukup and Stroock deferred pending decision in Jarrow Formulas, Inc. v. LaMarche, S106503 (#02-106), which presents the following

issue: Is a cause of action for malicious prosecution subject to a special motion to strike under the anti-SLAPP statute (Code Civ. Proc., § 425.16)?

DISPOSITIONS

#01-167 In re Kyle F., S101591, was transferred to the Court of Appeal for reconsideration in light of In re J.W. (2002) 29 Cal.4th 200.

#02-174 Panther v. Park, S110025, was transferred to the Court of Appeal with directions to vacate its decision and to dismiss the petition for writ of mandate pursuant to the request of the petitioner.

#02-146 People v. Garcia, S108472, was transferred to the Court of Appeal with directions to enter an order abating all proceedings due to the death of the defendant. A similar issue to that raised in the petition for review in this case is pending in People v. Canty, S109537 (#02-167), which presents the following issue: Was defendant entitled to have the disposition of her conviction for transportation of a controlled substance set in accordance with the provisions of the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), or was that enactment inapplicable because defendant was also convicted of misdemeanor driving under the influence of a controlled substance? (See Pen. Code, § 1210.1, subd. (b)(2).)

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